

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

228

**CWP No. 1716 of 1998 (O&M)
Date of decision: 11.05.2016**

Ajit Singh

....Petitioner

Versus

State of Haryana and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

1. Whether Reporters of local papers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. S.P. Chahar, Advocate for the petitioner.

Mr. R.K.Makkad, DAG, Haryana.

P.B. Bajanthri, J. (Oral)
CM No.1634 of 2016

Application has been filed for early hearing of an actual date. In view of the avernments made in the application, which is duly supported by an affidavit, same is allowed with the consent of learned counsel for the parties.

CM stands disposed of.

CWP No. 1716 of 1998

Heard learned counsel for the parties.

2. Petitioner was appointed as a Driver in the year 1989. While he was in service, he was charge sheeted on the allegations that he has parked the bus in the Bus stand instead of parking in depot. Unfortunately, the bus was stolen and the bus got damaged for which the appellant was held to be responsible. In the disciplinary proceedings charge against the appellant was proved. He had approached the Labour Court. Labour Court held that the workman/appellant was guilty of charges levelled against him and his termination is justified. Aggrieved by the order of the Labour Court, the present petition has been filed.

3. Learned counsel for the appellant contended that termination order is in pursuance to disciplinary proceedings. The Labour Court while framing issues in respect of issue No.2 is concerned, it is held as follows:-

“vide Award dated 16.07.1996, Issue No.2 was decided wherein it was held that the inquiry was not held in accordance with the principles of natural justice.”

4. Whereas, finding given by the Labour Court is that the charges levelled against the workman-petitioner is justifiable. There is a contradictory decision by the Labour Court.

5. At this juncture, instead of remanding the matter to the Labour Court, the matter is required to be examined by the competent authority/disciplinary authority to reappraise the new development namely during pendency of this litigation, petitioner in the normal course would have attained the age of superannuation and retired from service had he been in service. Therefore, it is necessary to remand the matter to the

disciplinary authority/competent authority to re-examine the whole issue and modify the penalty of termination to any other penalty other than removal/dismissal. Infact, it is noticed that the Labour Court did not consider the proportionately penalty whether it is excessive or not. Award of the Labour Court dated 13.08.1996 is set aside. The competent authority is directed to take a decision as observed above within a period of 3 months from today.

6. CWP stands disposed of.

11.05.2016
pooja saini

(P.B. BAJANTHRI)
JUDGE